

# **CITY COUNCIL AGENDA**

**OCTOBER 24, 2006**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ, VICE MAYOR  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES, MAYOR

KEN YEAGER  
MADISON P. NGUYEN  
DAVID D. CORTESE  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
**9:32 a.m.** - Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
**Absent Council Members: Chirco, Yeager. (Excused)**  
  
**1:34 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**  
  
**7:05 p.m.** - General Plan Hearings, Council Chambers, City Hall  
- Public Hearings, Council Chambers, City Hall  
**Absent Council Members: None.**
- **Invocation (District 9)**  
**Shahrzad Moghadam and Arton Falahati, Nejad World Music Center.**
- **Pledge of Allegiance**  
**Mayor Gonzales led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved, with Item 11.1(h) dropped and 11.1(a) continued to the 11/14/06 evening session.**

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to the Downtown Parks Staff from Parks, Recreation & Neighborhood Services Department in recognition of its collective efforts in supporting and facilitating the Summer 2006 special event season. (Parks, Recreation and Neighborhood Services)  
**Mayor Gonzales and Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized and commended the Downtown Parks Staff from Parks for its support in facilitating the Summer 2006 special event season.**

# 1. CEREMONIAL ITEMS

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- 1.2 Presentation of a commendation to Police Reserve Sergeant David D. Aguilar for his exemplary dedication and commitment to the City of San José. (Police)  
**Mayor Gonzales and Police Chief Robert Davis recognized and commended Police Reserve Sergeant David D. Aguilar for his invaluable dedication and commitment to the City of San José.**
- 1.3 Presentation of commendations to Adobe Systems Incorporated, Taylor Automotive, Forest City Commercial Management, Advanced Career Development, Money Mailer of South San José, San José City Hall and the San José Conservation Corps for achieving Green Business Certification in the community of San José and for their continuing commitment to protect the environment and enhance the quality for the residents of San José. (LeZotte)  
(Rules Committee referral 10/11/06)  
**Mayor Gonzales and Council Member LeZotte recognized and commended Adobe Systems Incorporated, Taylor Automotive, Forest City Commercial Management, Advanced Career Development, Money Mailer of South San José, San José City Hall and the San José Conservation Corps for achieving Green Business Certification in the City of San José.**
- 1.4 Presentation of a commendation recognizing Ms. Lieu Dang, Cofounders of the Friends of Hue Foundation for her dedication to fulfill the needs of the Vietnamese American Community. (Reed)  
(Rules Committee referral 10/18/06)  
**Heard in the evening.**  
**Mayor Gonzales and Council Member Reed recognized Ms. Lieu Dang for her efforts and dedication to the Vietnamese American Community.**
- 1.5 Presentation of a commendation to Pejmon Estakhri, who single handedly raised \$20,000 for the victims of the March earthquake that ravaged Iran. (Chavez)  
(Rules Committee referral 10/18/06)  
**Heard in the evening.**  
**Mayor Gonzales and Vice Mayor Chavez recognized and commended Pejmon Estakhri, who single handedly raised \$20,000 for the victims of the March earthquake that ravaged Iran.**
- 1.6 Presentation of a proclamation recognizing November 2, 2006 as “Native Heritage Celebration Day” in the City of San José. (Campos)  
(Rules Committee referral 10/18/06)  
**Heard in the evening.**  
**Mayor Gonzales and Council Member Campos declared November 2, 2006 as “Native Heritage Celebration Day” in the City of San José.**

## 1. CEREMONIAL ITEMS

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- 1.7 Oaths of Office for incoming Youth Commissioners, Matthew Kirmse, District 1; James Hill, District 2; Kimberly Loo, District 4; Sandy Ngo, District 5; Terry Reilly, District 6 and Sasha Bernal, District 7. (City Clerk)

(Rules Committee referral 10/18/06)

**Heard in the evening.**

**City Clerk Lee Price administered Oaths of Office to new Youth Commissioners: Matthew Kirmse, District 1; James Hill, District 2; Kimberly Loo, District 4; Sandy Ngo, District 5; Terry Reilly, District 6 and Sasha Bernal, District 7.**

- 1.8 Presentation of a commendation to the Italian American Heritage Foundation on the occasion of the 26<sup>th</sup> Annual Italian Family *Festa* for its dedication to honoring Italian history and culture and its outstanding contributions to the San José community. (Chavez/Cortese/LeZotte)

(Deferred from 10/17/06 – Item 1.2)

**Heard in the evening.**

**Dropped.**

## 2. CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**

**There were none.**

- 2.2 **Final adoption of ordinances.**

**Recommendation:**

- (a) ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091

[Deferred from 10/17/06- Item 2.2(d)]

**Deferred to 10/31/06.**

- (b) ORD. NO. 27889 – Repealing Part 22 of Chapter 2.08 of Title 2 of the San José Municipal Code and amending in its entirety Part 28 of Chapter 2.08 of Title 2 to consolidate the Community Development Block Grant Steering Committee and the Housing Advisory Commission into the new commission named the Housing and Community Development Advisory Commission.

**Ordinance No. 27889 adopted.**

## 2. CONSENT CALENDAR

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### 2.3 Approval of an amendment to the agreement for San José Elections Commission Evaluator Services.

**Recommendation:** Adoption of a resolution authorizing the City Attorney to negotiate and execute a first amendment to the agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP to provide legal and investigative services as the Evaluator to the San José Elections Commission, increasing compensation by \$100,000, to a total amount not to exceed \$200,000. CEQA: Not a Project. (City Attorney's Office/City Clerk)

**Resolution No. 73468 adopted.**

### 2.4 Approval of one Community Events Program Date at the HP Pavilion.

**Recommendation:** Approval of use of the HP Pavilion at San José for one Community Event date for the San José Sports Hall of Fame induction ceremony on November 14, 2006. CEQA: Not a Project. (City Manager's Office)

**Approved.**

### 2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

**Recommendation:**

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Increase the estimate for Earned Revenue by \$547,000.
  - (2) Increase the appropriation to the Department of Public Works for the Greater Gardner Street Reconstruction Project (PSM #346, Amendment 6) in the amount of \$105,000.
  - (3) Establish an appropriation to the Department of Public Works for the Zanker Road Median Island Landscape Improvement Project (PSM #468) in the amount of \$442,000.

**Ordinance No. 27892 adopted.**

**Resolution No. 73469 adopted.**

- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Zanker Road Median Island Landscape Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated October 2, 2006.

CEQA: Exempt, File Nos. PP04-07-215 and PP06-167. Council Districts 3, 4 and 6. SNI: Greater Gardner. (City Manager's Office)

**Resolution No. 73470 adopted.**

## 2. CONSENT CALENDAR

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### 2.6 Approval to amend the annual appropriation ordinance and funding source for the Workforce Investment Act Fund.

**Recommendation:** Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the Workforce Investment Act Fund:

- (a) Increase earned revenue estimate by \$170,000.
- (b) Establish an appropriation for Career Pathways in the amount of \$170,000.

CEQA: Not a Project. (Economic Development/City Manager's Office)

**Ordinance No. 27893 adopted.**

**Resolution No. 73471 adopted.**

### 2.7 Approval to create a new job classification titled Principal Permit Specialist.

**Recommendation:** Adoption of a resolution to create the job classification of Principal Permit Specialist (3901) with a pay range of \$28.03-\$34.07 per hour (\$58,302.40-\$70,865.60 annually). CEQA: Not a Project. (Human Resources)

**Dropped.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – October 11, 2006

**Vice Mayor Chavez, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review October 24, 2006 Draft City Council Agenda
    - (a) Adds to the October 24, 2006 Draft City Council Agenda
  - (2) Add New Items to the October 17, 2006 Agenda
  - (3) List of Reports Outstanding
- (c) Legislative Update
  - (1) State
  - (2) Federal
- (d) Meeting Schedules
  - (1) Approval to schedule a Study Session on Solar and Energy Issues on January 25, 2007. (Environmental Services)
  - (2) Approval to schedule Getting Families Back to Work Study Sessions on November 16 and 17, 2006. (Mayor)
- (e) The Public Record

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – October 11, 2006 (Cont'd.0

**Vice Mayor Chavez, Chair**

- (f) Appointments to Boards, Commissions and Committees
  - (g) Rules Committee Reviews, Recommendations and Approvals
    - (1) City Council Spending Policy. (Cortese)
    - (2) Approval of the Revised Building Strong Neighborhoods Committee Work Plan. (Mayor/Chirco)
    - (3) Request the City Manager to assess Code Enforcement-The General Code Compliant Handling Process and the Fee Based Multi Family Dwelling Program. (Planning, Building and Code Enforcement)  
**Deferred to 10/17/06**
    - (4) Proposed Work Load Assessment for the Administration of HP Grants. (City Manager's Office/City Clerk)  
**Deferred to 10/17/06**
    - (5) Discussion and possible action regarding the City's Military Reservist Policy. (Campos)  
**Dropped.**
  - (h) Review of Significant Public Records Act Requests
  - (i) Review of Council Policy Updates per Sunshine Reforms
    - (1) Approve the proposed methodology and process to review and update the Council Policy manual. (City Manager's Office)
  - (j) Open Forum
  - (k) Adjournment
- Deferred to 10/31/06.**

#### 3.3 Report of the Making Government Work Better Committee

**Council Member Reed, Chair**

**No Report.**

#### 3.4 Approval to amend the Bearing Point contract.

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Negotiate and execute a third amendment to the agreement for an Integrated CIS and Hauler Management System between the City of San José and BearingPoint, Inc. increasing the total maximum compensation (including previously approved contract amendments and contingencies) of \$7,306,574, by \$1,548,000 to implement Phases 1.1, 1.2, and 2.1 of the Integrated Billing Project, formally known as the C-UBS Project and fund \$110,574 in contingencies to be authorized by the Director of Finance for a total maximum compensation not to exceed \$8,965,148 and;
- (b) Execute change orders with respect to use of the contingency and modification of scope of services due to changes in proposed fit-gap analyses.

CEQA: Not a Project. (Finance)

**Resolution No. 73472 adopted.**



### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.5 Approval of the staff report on events at City Hall and of revisions to Council Policy 7-2 related to the use of City Hall.**

**Recommendation:**

- (a) Acceptance of the staff report on events at City Hall.
- (b) Adoption of a resolution setting forth a revised fee schedule related to use of City Hall and superseding Resolution No. 72940 and approving revisions to Council Policy 7-2 related to use of City Hall to provide for:
  - (1) Free events Sunday through Friday for Official City Business in the rotunda, Council Chambers, plaza and bamboo garden, subject to certain limitations.
  - (2) Weekday, daytime activation of the rotunda and plaza.
  - (3) Seasonal displays in lobbies.

CEQA: Resolution No. 68905. Council District 3. SNI: University. (General Services)  
**Deferred to 11/14/06.**

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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#### **4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair No Report.**

#### **4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair No Report.**

#### **4.3 Approval to continue the suspension of the collection of Building and Structure Construction Taxes.**

**Recommendation**

- (a) Approval of an ordinance amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code (SJMC) to extend the period retroactive from November 1, 2006 to April 30, 2008, during which the City suspends the collection of Building and Structure Construction Taxes imposed for the construction of special industrial use Research and Development and Office tenant improvements.

**Ordinance No. 27894 passed for publication.**

- (b) Approval of an ordinance amending Section 4.46.039.9 of 4.46 of Chapter 4.46 of Title 4 of the San José Municipal Code (SJMC) to extend the period retroactive from November 1, 2006 to April 30, 2008, during which the City suspends the collection of Building and Structure Construction Taxes imposed for the construction of office use tenant improvements in the Downtown Core.

**Ordinance No. 27895 passed for publication.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Approval to continue the suspension of the collection of Building and Structure Construction Taxes (Cont'd.)

- (c) Direction to staff to extend the Coordinated Plan Check Review process from November 1, 2006 to April 30, 2008, allowing for plan-check fee collection deferral until permit issuance for tenant improvements in vacant office buildings within the Downtown Core and in vacant industrial and research buildings throughout San José.

CEQA: Exempt. (Economic Development)

#### **Approved with Staff directed to:**

- (1) Continue to refine the incentive timelines by market segment based on the City's overall economic goals in "Getting Families Back To Work".**
- (2) Provide information on the impact to transportation programs in the next budget cycle.**

### 4.4 Public Hearing on the reorganization/annexation of Story No. 59.

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 59 an approximately 3.7 acre County Pocket containing four (4) parcels on the Southeasterly corner of Story Road and Machado Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service (Numerous Owners).

CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

**Heard in the evening.**

**Continued to 11/14/06.**

### 4.5 Public Hearing on the reorganization/annexation of Sunol No. 74.

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 74 an approximately 1.7 acre County Pocket consisting of 13 parcels on the south side of Paula Street, west of Race Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

**Continued to 11/14/06. To be heard in the evening.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.6 Public Hearing on the reorganization/annexation of Sunol No. 75.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 75 an approximately 3.6 acre County Pocket consisting of 13 parcels on the north side of Paula Street, east of Northrup Street, and the west side of Lincoln Avenue south of Interstate 280 and north of Paula Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

**Continued to 11/14/06. To be heard in the evening.**

### **4.7 Public hearing on the reorganization/annexation of Sunol No. 76.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 76 an approximately 1.8 acre County Pocket consisting of 13 parcels on the north side of Paula Street, west of Northrup Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

**Continued to 11/14/06. To be heard in the evening.**

### **4.8 Public hearing on the reorganization/annexation of Cambrian No. 35.**

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Cambrian No. 35 an approximately 2.55 acre County Pocket consisting of 9 parcels on the southwesterly corner of Bascom Avenue and Curtner Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from West valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)

**Continued to 11/14/06. To be heard in the evening.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.9 Public Hearing on the reorganization/annexation of Sunol No. 72.

**Recommendation:** Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of the territory designated as Sunol No. 72 an approximately 0.88 gross acres of land located at the south side of Paula Street, approximately 160 feet easterly of Meridian Way, and the detachment of the same from the appropriate special districts including Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration. Council District 6. (Planning, Building and Code Enforcement)

**Heard in the evening.**

**Resolution No. 73474 adopted.**

### 4.10 Public Hearing and consideration of a City Landmark Designation for the Hensley House.

**Recommendation:** Public hearing and consideration of approval of a City Landmark Designation for the Arguello Gosbey House also known as The Hensley House on a 0.14 gross acre site, located on the northeast corner of Hensley Street and N. Third Street (456 N. 3rd St.) (Angela Chumak, Owner). SNI: 13<sup>th</sup> Street. CEQA: Exempt.

HL06-156 - District 3

**Resolution No. 73473 adopted.**

**Disqualified: Gonzales**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the All Children Achieve Committee – October 12, 2006 Council Member Yeager, Chair

(a) Annual Report on Library Usage  
**Deferred to November 2006.**

(b) Update on Early Care and Education Strategic Plan 2006  
(Deferred from 9/14/06)  
**The Committee accepted the Staff report.**

(c) San José's High School Initiative Update  
**Deferred to November 2006.**

(d) Discussion of City Anti-Truancy Efforts  
**The Committee accepted the Staff report.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the All Children Achieve Committee – October 12, 2006 (Cont'd.) Council Member Yeager, Chair**

(e) Oral Petitions

**None were presented.**

(f) Adjournment

**The meeting was adjourned at 2:20 p.m.**

**The All Children Achieve Committee Report and the Actions of October 12, 2006, were accepted.**

### **5.2 Approval of actions related to the American Musical Theatre of San José.**

**Recommendation:**

(a) Approval to consider the recommendation in (b-c) below pursuant to the Early Distribution Process Rules (2/3 vote required).

(b) Approval of a \$1 million revolving line of credit for the American Musical Theatre of San José (AMTSJ) under the following conditions:

(1) AMTSJ complies with all of the terms and conditions of the loan agreement contained in Appendix A of the report; and

(2) If approved, adopt a resolution authorizing the City Manager to negotiate and execute a loan agreement with AMTSJ in an amount not to exceed \$1 million.

(c) If action is taken to approve the line-of-credit for AMTSK authorizing for the utilization of the newly-created Arts Stabilization Fund, if approved as part of the City Manager's 2005-2006 Annual Report and the associated appropriation ordinance, Item 3.4 on the October 17, 2006, City Council Agenda.

CEQA: Not a Project. (City Manager's Office)

**Deferred to 10/31/06.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.3 Approval of actions related to the Parkland Dedication and Park Impact Ordinances.**

#### **Recommendation:**

- (a) Approval of adjustments of the in-lieu fees for the Parkland Dedication and Park Impact Ordinances to 100% of the 2005 land values as listed in Attachment A of the report.
- (b) For each item listed under the “Base Recommendations” in Attachment B of the report, accept staff’s recommendation for amendments to the Parkland Dedication and Park Impact Ordinances and associated Fees and Credits Resolution.
- (c) Direction to staff to return to the City Council with a revised ordinance and associated fee resolution which reflects the Council’s above recommendations.

CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)

#### **Heard in the evening.**

#### **Approved, with Staff directed to:**

- (1) **Modify limitation of land dedications to at least .5 acres and allow smaller dedications if they would be a part of an existing or planned facility.**
- (2) **Support Staff recommendation regarding stormwater detention as a pilot with a report back to Council in one year.**
- (3) **When ordinance comes back, ensure that there are clear guidelines for using County and School property.**
- (4) **Use clear guidelines for the use of stormwater detention areas and benchmarks for maintenance.**
- (5) **Consider vouchers during the next Budget cycle and explore funding options for parks in low income communities.**
- (6) **City Manager to provide a progress report on grants management with an emphasis on opportunities for grant development as it relates to parks.**
- (7) **Staff to work with the City Manager regarding the Annual Update on Expenditures; with the report to Council by April 2007, prior to the Budget meetings in May 2007.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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- 6.1 Report of the Building Better Transportation Committee**  
**Council Member Campos, Chair**  
**No Report.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **Closed Session Report**  
**City Attorney Doyle disclosed the following Closed Session action(s) of October 24, 2006:**

**A. Pending Litigation – Settlements Authorized:**

**Case Name:** **Moreno, et.al. v. City of San José, et.al.**

**Substance of Litigation:**      **Approval of settlement of lawsuit. The Redevelopment Agency to pay the total sum of \$40,000.00 to Plaintiffs.**

**Council Vote: Ayes:**              **Campos, Chavez, Nguyen, Pyle, Reed, Williams; Gonzales.**

**Noes:**                      **None.**

**Disqualified:**              **None.**

**Absent:**                      **Chirco, Cortese, LeZotte, Yeager.**

- **Notice of City Engineer's Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9813	SS of Curtner Ave., 250' W of Joseph Ave.	9	Long Nguyen	6 Lots/ 5 Units	SFAR	Approve

- **Notice of City Engineer's Award of Construction Projects**  
None.

- **Open Forum**
  - (1) **Mark Trout voiced religious points of view.**
  - (2) **Daniel McCall presented personal observations.**
  - (3) **Ross Signorino stated views on the Mayoral race.**

- **Adjournment**  
**The Afternoon Council Session was adjourned at 3:02 p.m.**



## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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(Heard by the City Council at 7:05 p.m.)

### 10.1 Tentative approval of General Plan Consent Calendar items.

#### **Recommendation:**

- (a) The items being considered are for property located on the southwesterly quadrant of Alum Rock Avenue (1898 Alum Rock Avenue and at the northerly portion of 1884 Alum Rock Avenue) and McCreery Avenue (57 McCreery Avenue) on approximately 0.59-acre (J.A. and Mabiela R. Calderon, Owner/Applicant).
- (1) Consideration of tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from General Commercial on approximately 0.46 acres to Neighborhood/Community Commercial and maintain the existing Neighborhood Business District Overlay and from Medium Density Residential (8-16 DU/AC) on approximately 0.2 acres to Neighborhood/Community Commercial with the addition of a Neighborhood Business District Overlay. SNI: Mayfair. CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommended approval (7-0-0).

GP05-05-02 - District 5

**The Staff/Planning recommendation was tentatively approved.**

- (2) Consideration of an ordinance rezoning the real property from CG Commercial General and R-1-8 Single Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow 6,210 square feet for commercial uses on a 0.59 gross acre site. SNI: Mayfair. CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommended approval (7-0-0).
- PDC05-112 - District 5

**Item 11.1(e) heard under 10.1(a).**

**Ordinance No. 27896 passed for publication.**

**END OF CONSENT CALENDAR**

## **10. GENERAL PLAN PUBLIC HEARINGS**

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### **10.2 Adoption of a resolution approving all General Plan amendment actions taken on October 24, 2006.**

**Recommendation:** Adoption of a resolution approving all General Plan amendment actions taken on October 24, 2006 and adoption of any related CEQA resolutions.  
(Planning, Building and Code Enforcement)

**Resolution No. 73475 adopted.**

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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(Heard by the City Council at 7:05 p.m.)

### 11.1 Public Hearings on Consent Calendar.

#### **Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located on the east side of North 2<sup>nd</sup> Street, approximately 140 feet northerly of St. James Street from CG Commercial General Zoning District to DC Downtown Commercial Zoning District to allow commercial uses within a designated City Landmark building on a 0.43 gross acre site (240 N. 2<sup>nd</sup> St.) (Bel Aire Inv. Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Resolution No. 65459.

C06-031 - District 3

[Continued from 10/3/06 – Item 11.1(c)]

**Continued to 11/14/06 evening session at the Applicant's request, per Orders of the Day.**

- (b) Consideration of an ordinance rezoning the real property located at the southeast corner of Almaden Expressway and Almaden Road from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 13 single family detached residences on a 1.24 gross acre site (18950 Almaden Road) (John D. and Jennifer R. Carson, Owner). CEQA: Mitigated Negative Declaration.

PDC05-109 - District 10

[Continued from 10/3/06 – Item 11.1(f)]

**Dropped.**

- (c) Consideration of an ordinance rezoning the real property located on the south side of Story Road approximately 150 feet east of Adrian Way from CO Commercial Office Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.24 gross acre site (2250 Story Rd) (José and Ana Canales, Owner). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. SNI: East Valley/680 Communities. CEQA: Resolution No. 65459.

C06-096 - District 5

**Continued to 11/14/06.**

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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### 11.1 Public Hearings on Consent Calendar (Cont'd.)

#### **Recommendation:**

- (d) Consideration of an ordinance rezoning the real property located on the south side of University Avenue approximately 100 feet northerly of Myrtle Street from R-2 Two Family Residence District to A(PD) Planned Development Zoning District to allow a two single family detached residences on 0.33 gross acres (970 University Ave.) (Sharon Dains, Owner). Director or Planning, Building, and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Exempt.

PDC02-002 - District 6

**Ordinance No. 27897 passed for publication.**

- (e) The items being considered are for property located on the southwesterly quadrant of Alum Rock Avenue (1898 Alum Rock Avenue and at the northerly portion of 1884 Alum Rock Avenue) and McCreery Avenue (57 McCreery Avenue) on approximately 0.59-acre (J.A. and Mabiela R. Calderon, Owner/Applicant).

- (1) Consideration of tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from General Commercial on approximately 0.46 acres to Neighborhood/Community Commercial and maintain the existing Neighborhood Business District Overlay and from Medium Density Residential (8-16 DU/AC) on approximately 0.2 acres to Neighborhood/Community Commercial with the addition of a Neighborhood Business District Overlay. SNI: Mayfair. CEQA: Mitigated Negative Declaration. Director or Planning, Building, and Code Enforcement and Planning Commission recommended approval (7-0-0).

GP05-05-02 - District 5

- (2) Consideration of an ordinance rezoning the real property from CG Commercial General and R-1-8 Single Family Residence Zoning Districts to A(PD) Planned Development Zoning District to allow 6,210 square feet for commercial uses on a 0.59 gross acre site. SNI: Mayfair. CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommended approval (7-0-0).

PDC05-112 - District 5

**Heard with General Plan Item 10.1(a). See Item 10.1(a) for Council Action.**

- (f) Consideration of a director initiated prezoning ordinance prezoning an approximately 14.84 gross acre area consisting of portions of 7 parcels on the south side of Manila and Curie Drives, west of San Ignacio Avenue from County of Santa Clara to OS Open Space (Santa Clara County, Owner). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.

C06-072 - District 2

**Ordinance No. 27898 passed for publication.**

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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### 11.1 Public Hearings on Consent Calendar (Cont'd.)

#### **Recommendation:**

- (g) Consideration of a director initiated rezoning ordinance rezoning an approximately 15.3 gross acre area consisting of 2 parcels on the southeast corner of Capitol Avenue and Hostetter Road from County of Santa Clara to RM Multiple Residence Zoning District for multi family residential purposes (Clara Bianchi, Trustee; Santa Clara Valley Transit Authority, Owners). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.  
C06-074 - District 4  
**Continued to 11/14/06.**
- (h) Consideration of a director initiated rezoning ordinance rezoning an approximate 3.7 gross acre site consisting of 5 parcels located on the north side of Story Road, 780 feet westerly of Machado Lane from County of Santa Clara to R-1-RR Single Family Residence District for single family residential purposes (Jesus & Maria Reyes, Dagmar McNelly, Lenora Jones, Ramon & Elizabeth Martinez, Owners). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.  
C06-075 - District 5  
**Dropped, per Orders of the Day.**
- (i) Consideration of a director initiated rezoning ordinance rezoning an approximately 4.23 gross acre area consisting of 3 parcels located on the southeast side of Story Lane, 870 feet northeasterly of Clayton Road from County of Santa Clara to R-1-2 Single Family Residence District for single family residential purposes (Ben & Alice Nagashima, Trustee; Janet Nagashima, Mai Phuong Nguyen, Owners). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.  
C06-076 - District 5  
**Dropped; To be renoticed.**

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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### 11.1 Public Hearings on Consent Calendar (Cont'd.)

#### **Recommendation:**

- (j) The projects being considered are on an approximately 33.6 gross acre area consisting of 3 parcels on the northerly side of Seely Avenue, west of Montague Expressway. (Sakauye, Suzaye, Sakauye Partners, City of San José, Owners). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.

#### C06-083 - District 4

- (1) Consideration of a Director initiated rezoning ordinance rezoning two parcels on approximately 22.6 acres on the northerly side of Seely Avenue, west of Montague Expressway from County of Santa Clara to IP Industrial Park for industrial park purposes.

**Ordinance No. 27899 passed for publication.**

- (2) Consideration of a Director initiated rezoning ordinance rezoning one parcel on approximately 11 acres west of Montague Expressway approximately 600 feet north of Seely Avenue from County of Santa Clara to OS Open Space for open space purposes.

**Ordinance No. 27900 passed for publication.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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### 11.2 Amending Chapter 21.04 of Title 21 of the San José Municipal Code.

**Recommendation:** Consideration of an ordinance of the City of San José amending Chapter 21.04 of Title 21 of the San José Municipal Code to add a new section and amending Section 21.06.030 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. CEQA: Not a Project. (Planning, Building and Code Enforcement)  
[Continued from 8/29/06 – Item 11.1(k) and 10/3/06 – Item 11.3]

**Continued to 12/5/06.**

### 11.3 Rezoning the real property located on the southwest corner of Stevens Creek Boulevard and Palace Drive.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the southwest corner of Stevens Creek Boulevard and Palace Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an approximately 170,000 square foot, five story structure for a parking garage and automobile service center uses at an existing automobile dealership on a 5.77 gross acre site (4500 Stevens Creek Blvd.). Director of Planning, Building, and Code Enforcement and Planning Commission recommended approval (7-0-0). CEQA: Mitigated Negative Declaration.

PDC04-043 - District 1

**Ordinance No. 27901 passed for publication, with condition added that car dealerships observe no parking or off-loading on public streets.**

### 11.4 Rezoning the real property located on the east side of Bird Avenue, approximately 200 feet north of Willow Street.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the east side of Bird Avenue, approximately 200 feet north of Willow Street from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to three single family residences, two constructed without benefit of permits, on a 0.30 gross acre site (1070 Bird Avenue) (Norman P. Dreyer, Trustee, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended conditional approval to allow up to two single-family residences (4-1-2). CEQA: Exempt.

PDC06-028 - District 6

**Ordinance No. 27902 passed for publication.**

## 11. PUBLIC HEARINGS

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### 11.5 Public Administrative Hearing on an appeal of the Planning Commission's decision to deny a Conditional Use Permit.

**Recommendation:** Public Administrative Hearing on an appeal of the Planning Commission's decision to deny a Conditional Use Permit and deny the granting of a determination for Public Convenience or Necessity for the off-sale of alcoholic beverages at an existing retail store on a 0.43 gross acre site, in the CP Pedestrian Commercial Zoning District located at the southwest corner of Winchester Boulevard and Impala Drive (Los Primos Meat Market at 1539 S. Winchester Blvd.) (Ronnie Berry, Owner). SNI: Winchester. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to deny.

CP06-009 & ABC06-006 - District 1

(Rules Committee referral 10/18/06)

**Appeal denied.**

- **Open Forum**

(1) **Judy Richardson encouraged reforms to increase voter participation.**

- **Adjournment**

**The Council of the City of San José was adjourned at 10:24 p.m. in memory of Leonard McKay, a champion of San José's history dedicated to preserving and sharing our City's rich heritage**